



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE
ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of M.C.,
County Correctional Police Officer
(S9999U), Essex County

Medical Review Panel Appeal

CSC Docket No. 2021-313

ISSUED: OCTOBER 12, 2021 (BS)

M.C., represented by Timothy J. Prol, Esq., appeals his rejection as a County Correctional Police Officer candidate by Essex County and its request to remove his name from the eligible list for County Correctional Police Officer (S9999U) on the basis of psychological unfitness to perform effectively the duties of the position.

This appeal was brought before the Medical Review Panel (Panel) on April 29, 2021, which rendered a Report and Recommendation on May 10, 2021. Exceptions were filed on behalf of the appellant.

The report by the Panel discusses all submitted evaluations. It indicates that Dr. Lewis Schlosser (evaluator on behalf of the appointing authority) conducted a psychological evaluation of the appellant and stated that the appellant presented as “defensive, evasive, and vague.” The appellant was “unable or unwilling” to provide details regarding his termination from the Harrington Park Police Department. Moreover, the appellant denied ever being arrested or criminally charged. However, Dr. Schlosser noted that, during a previous evaluation with IFP (Institute for Forensic Psychology), the appellant was described as having been arrested and having complaints filed against him. Dr. Schlosser characterized the appellant as “downplaying the seriousness of past incidents,” including an incident when a child was injured by his dog. The test data revealed that the appellant approached the testing in an “overly defensive and minimizing fashion.” Dr. Schlosser opined that an absence of elevations on clinical scales is not an indication of a lack of problematic psychological traits, symptoms, or characteristics. In the appellant’s case, the physical aggression scale suggested that the appellant was more prone to

physical fights and threats of violence than the average law enforcement candidate. As a result, Dr. Schlosser failed to recommend the appellant for appointment.

The Panel's report also indicates that Dr. David Pilchman (evaluator on behalf of the appellant) carried out a psychological evaluation of the appellant and concluded that Dr. Schlosser's report was completed in the context of a previous fitness for duty examination of the appellant which was conducted by IFP. Dr. Schlosser's report showed no acknowledgement of or integration of positive qualities and multiple strengths that, in Dr. Pilchman's opinion, would contribute to positive performance and adjustment to the role of County Correctional Police Officer. Dr. Pilchman opined that Dr. Schlosser's evaluation also failed to include any substantive information regarding the appellant's employment history. Dr. Pilchman indicated that his interview of the appellant revealed that the appellant had well-developed values and ethics and other traits which would be valued in a correctional environment. Additionally, Dr. Pilchman indicated that the appellant provided "multiple detailed factual information clarifying suggested poor judgement or misconduct." In Dr. Pilchman's professional opinion, the appellant was psychologically suitable for appointment as a County Correctional Police Officer.

The Panel noted that the evaluators on behalf of the appellant and the appointing authority reached differing conclusions and recommendations. The appointing authority's evaluator saw the appellant as "defensive, evasive, and vague," and there were some concerns about the psychological testing. Concerns were also expressed in the appointing authority's report and shared by the Panel about the appellant's previous history which included an April 2008 threat against his neighbor, a Police Captain in another jurisdiction, after a longstanding conflict when the appellant's dog injured the neighbor's child. The appellant's actions triggered a fitness for duty evaluation at that time. Dr. Guillermo Gallegos from IPF conducted the evaluation and reviewed a Paramus Police Report which revealed the appellant had made alleged threats of violence and death directed at the neighbor and that the director of the shelter where the appellant's dog was being held feared for his safety as a result of the appellant's interactions with him. Additional incidents that came to light at that time were a December 2003 incident where the appellant was arrested and charged with simple assault related to a fight with a patron at an establishment where the appellant was working security, although the Panel indicated that it was unable to ascertain as to whether he was convicted of the charge. Further, there was a 2006 incident in which the appellant made a verbal threat to a woman who was having a dispute with his wife, and as also having passed a bad check. The appellant was also counseled by his Police Captain in the Harrington Park Police Department. Dr. Gallegos was of the opinion that, in that incident, the appellant used "language and attitudinal stances that are deemed inappropriate within a paramilitary organization." Moreover, the Panel noted that Dr. Gallegos concluded at that time that the appellant was not fit for duty, with the exception of desk or modified duty where a service weapon was not

required. Dr. Gallegos further recommended that the appellant be examined by a psychiatrist regarding the need for psychotropic medication and that he should begin psychotherapy. The appellant's evaluator in the present case was critical of the appointing authority's report, accepted the appellant's explanations, and opined that the appellant understood the importance of cooperation, being a team player, and he was satisfied that the appellant could work harmoniously with others.

The Panel, however, was concerned about the appellant's lack of follow-through with Dr. Gallegos' recommendation that he pursue an evaluation with a psychiatrist and start psychotherapy after the 2008 fitness for duty evaluation. Although the appellant was apparently seen by Dr. Nancy Gallina, who opined that he was fit for duty, the evaluation was limited due to lack of records. The appellant was terminated from his position as a Police Officer. The Panel noted several reports of interpersonal conflicts associated with the appellant, as described above, including one in his present position in 2020. The Panel was of the opinion that the appellant's interpersonal conflicts had occurred in the past and the more recent interpersonal conflict was concerning. The Panel found that in view of Drs. Schlosser's and Pilchman's evaluations, the appellant's presentation, and the behavioral record when viewed in light of the Job Specification for County Correctional Police Officer, the appellant was not fit to perform the duties of the position.

In his exceptions, the appellant asserts that his performance since 2013 with the City of Newark as a dispatcher and crime scene investigator has been exemplary, and that the Panel failed to consider this, and instead focused on one incident. The appellant claims that "interpersonal conflicts," without more, are an insufficient basis to find him unfit and that being "defensive, evasive, and vague" is not an indication of psychological unfitness. The appellant argues that the Panel overemphasized "decades-old analyses of events which have long-since been remedied." Additionally, in 2008, Dr. Gallina found the appellant did not have a diagnosable mental illness or personality disorder and that, "within a reasonable degree of psychological certainty," the appellant was fit to perform the duties of a Police Officer. The appellant argues that this negated Dr. Gallegos' report and there was no need "to rely upon" Dr. Gallegos' recommendations. Further, the appellant contends that the Panel failed to adequately and properly consider the evaluations finding the appellant fit for duty. The appellant highlights the reports of Dr. Gallina and Pilchman, noting that he provided "multiple detailed factual information clarifying suggested poor judgement or misconduct." The appellant cites *In the Matter of Vey*, 124 N.J. 534, 536 (1991), which requires that the Panel's findings must relate to the statutory requirements of the position. He maintains that the Panel's findings did not. Accordingly, the appellant submits that he must remain on the subject eligible list.

CONCLUSION

The Job Specification for the title of County Correctional Police Officer is the official job description for such positions within the Civil Service system. According to the specification, officers are responsible for the presence and conduct of inmates as well as their safety, security and welfare. An officer must be able to cope with crisis situations and to react properly, to follow orders explicitly, to write concise and accurate reports, and to empathize with persons of different backgrounds. Examples of work include: observing inmates in a variety of situations to detect violations of institutional regulations; escorting or transporting individual and groups of inmates within and outside of the institution; describing incidents of misbehavior in a concise, factual manner; following established policies, regulations and procedures; keeping continual track of the number of inmates in his or her charge; and performing regular checks of security hazards such as broken pipes or windows, locks that were tampered with, unlocked doors, etc.

The Civil Service Commission (Commission) has reviewed the Job Specification for this title and the duties and abilities encompassed therein and finds that the psychological traits which were identified and supported by test procedures and the behavioral record relate adversely to the appellant's ability to effectively perform the duties of the title. The appellant's exceptions do not persuasively dispute the findings and recommendations of the Panel in this regard. The Panel's concerns centered on the appellant's previous interpersonal conflicts and his termination from a previous position as a Police Officer. Although the appellant argues that his disqualification was based on "decades old analyses" of events which had "long since been remedied," his termination as a Police Officer occurred in 2008 and the closing date for filing applications for the S9999U list was August 31, 2016, only eight years after the incident and not decades ago. Moreover, contrary to the appellant's reliance on *Vey, supra*, the Commission notes that judgment is a very important psychological characteristic that directly relates to the job requirements of those aspiring to serve in a law enforcement capacity and the appellant's background is fraught with instances of bad judgment which render him unsuitable for employment as a County Correctional Police Officer. As set forth above, the Panel's report underscores all of these instances. Thus, the Commission agrees with the Panel's conclusions with respect to the appellant's suitability and defers to the Panel's expert opinion. In that regard, the Commission notes that the Panel conducts an independent review of all of the raw data presented by the parties as well as the raw data and recommendations and conclusions drawn by the various evaluators prior to rendering its own conclusions and recommendations, which are based firmly on the totality of the record presented to it. The Panel's observations regarding the appellant's behavioral history, responses to the various assessment tools, and appearance before the Panel are based on its expertise in the fields of psychology and psychiatry, as well as its experience in evaluating hundreds of appellants for law enforcement positions.

Therefore, having considered the record, including a review of the Job Specification for the position sought, and the Panel's Report and Recommendation issued thereon and having made an independent evaluation of the same, the Commission accepts and adopts the findings and conclusions as contained in the Panel's Report and Recommendation. Accordingly, the appellant's appeal is denied.

ORDER

The Commission finds that the appointing authority has met its burden of proof that M.C. is psychologically unfit to perform effectively the duties of a County Correctional Police Officer and, therefore, the Commission orders that his name be removed from the subject eligible list.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 6TH DAY OF OCTOBER, 2021

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